

§ 1965.33

(a) *Liens*. When taking real estate as additional security, the best lien obtainable will be taken on any real estate owned by the borrower, including any real estate which already serves as security for another loan. Normally, the prior concurrence of the District Director will be obtained. Liens will be taken only when:

(1) Present security for the loan is not adequate to protect the interests of the FmHA or its successor agency under Public Law 103-354, and

(2) The borrower is delinquent, has substantial equity in the real estate to be mortgaged and it is determined that the taking of the mortgage will not prevent the making of an FmHA or its successor agency under Public Law 103-354 real estate loan, which might be needed in the foreseeable future.

(b) *Real estate*. Before taking real estate as additional security for an FmHA or its successor agency under Public Law 103-354 loan the following items will be documented in the running record:

(1) the facts which justify taking the real estate lien;

(2) A conservative estimate of the present market value of the real estate to be mortgaged. (It will not be necessary to submit an appraisal of the property to be mortgaged.);

(3) A brief description of any existing liens on the property, and the repayment terms and the unpaid balance on the debts secured by existing liens, unless this is accurately reflected on a recent financial statement; and

(4) The name of the title holder and how title of the property is held. (Title evidence need not be required.)

(c) *Forms*. Each real estate lien taken as additional security for the FmHA or its successor agency under Public Law 103-354 loans will be taken on Form FmHA or its successor agency under Public Law 103-354 1927-1 (state), "Real Estate Mortgage or Deed of Trust for _____ (Insured Loans to Individuals)" unless a State supplement requires the use of a form of mortgage comparable to that which secures the existing loan(s) to be additionally secured. The notes evidencing the FmHA or its successor agency under Public Law 103-354 loans for which the additional security

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will be taken will be described in the same mortgage.

[51 FR 4140, Feb. 3, 1986, as amended at 52 FR 26139, July 13, 1987; 53 FR 35798, Sept. 14, 1988; 56 FR 67484, Dec. 31, 1991; 58 FR 52655, Oct. 12, 1993]

§ 1965.32 [Reserved]

§ 1965.33 Cosigners—SFH loans.

See § 1965.129 of subpart C of this part for servicing SFH loans with cosigners.

§ 1965.34 [Reserved]

§ 1965.35 Exception authority.

The Administrator or delegate may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the Government's interest would be adversely affected or the immediate health and/or safety of tenants or the community are endangered if there is no adverse effect on the Government's interest. The Administrator will exercise this authority upon the request of the State Director with recommendation of the appropriate program Assistant Administrator; or upon request initiated by the appropriate program Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§ 1965.36 State Supplements and reference to the OGC.

State Supplements will be prepared, with the advice of the OGC, as necessary to carry out this subpart and forwarded to the National Office for prior or post approval.

§ 1965.37 Redelegation of authority.

The State Director is authorized to redelegate in writing any authority delegated to the State Director in this subpart to one or more of the following State Office employees: Chief, Farmer Programs; Farmer Programs Specialist.